

Message Text

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ACTION L-03

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FM AMEMBASSY MEXICO
TO SECSTATE WASHDC PRIORITY 0314

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E.O. 11652: NA
TAGS: CARR, PFOR, MX
SUBJECT: U.S.-MEXICO TREATY ON EXECUTION OF PENAL
SENTENCES - IMPLEMENTATION OF ARTICLE VIII (2)

REF: A) ABBELL TO GAITHER TELCON OF MAY 17, 1978
B) MEXICO 07914
C) STATE 102417

1. PURSUANT TO AUTHORIZATION CONTAINED REF (C), EMBASSY
SUBMITTED PROPOSAL TO EXECUTIVE OFFICER TO ATTORNEY
GENERAL FLORES SANCHEZ WHICH WAS THEN TRANSMITTED DIRECTLY
TO THE ATTORNEY GENERAL.

2. PURSUANT TO REF (A), EMBASSY NOW HAS RECEIVED REQUEST
TO MODIFY THAT PROPOSAL. MODIFICATIONS REQUESTED BY
DEPARTMENT OF JUSTICE PER REFTELECON WOULD REVISE THE
PROPOSED EXCHANGE OF LETTERS TO READ AS FOLLOWS:

BEGIN QUOTE
ATTORNEY GENERAL OSCAR FLORES SANCHEZ
PROCURADURIA GENERAL DE LA REPUBLICA
MEXICO CITY, MEXICO
DEAR MR. ATTORNEY GENERAL:

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I REFER TO THE MATTER OF THE IMPLEMENTATION OF ARTICLE
VIII (2) OF THE TREATY BETWEEN THE UNITED STATES AND
MEXICO ON EXECUTION OF PENAL SENTENCES DONE AT MEXICO CITY
NOVEMBER 25, 1976.

INASMUCH AS THIS ARTICLE PROVIDES THAT THE PARTIES MAY
ENTER INTO A SPECIAL AGREEMENT FOR THE TRANSFER OF PERSONS

ACCUSED OF AN OFFENSE BUT DETERMINED TO BE OF UNSOUND MENTAL CONDITION FOR CARE IN INSTITUTIONS IN THEIR COUNTRY OF NATIONALITY, I PROPOSE THAT THE PROVISIONS OF THIS LETTER SHALL APPLY TO:

- 1) CASES OF NATIONALS OF EITHER COUNTRY WHO HAVE BEEN CHARGED WITH AN OFFENSE IN THE OTHER COUNTRY AND DETERMINED BY THE AUTHORITIES OF THE CHARGING COUNTRY TO BE OF SUCH UNSOUND MENTAL CONDITION AS TO BE UNABLE TO STAND TRIAL; AND
- 2) CASES OF NATIONALS OF EITHER COUNTRY WHO AFTER CONVICTION AND SENTENCE FOR AN OFFENSE IN THE OTHER COUNTRY HAVE BEEN DETERMINED IN ACCORDANCE WITH THE LAW OF THE SENTENCING COUNTRY TO BE OF UNSOUND MENTAL CONDITION.

IN A CASE IN WHICH THE MENTALLY ILL PERSON WAS CHARGED WITH A FEDERAL OFFENSE IN THE OTHER COUNTRY, THE EMBASSY OF THE PERSON CHARGED WILL PETITION THE AUTHORITY OF THE TRANSFERRING STATE FOR THE TRANSFER OF SUCH PERSON. IF THAT AUTHORITY FINDS THE TRANSFER TO BE APPROPRIATE UNDER ITS LAW IT WILL TURN OVER CUSTODY OF SUCH PERSON TO THE APPROPRIATE AUTHORITIES OF THE RECEIVING STATE FOR TRANSFER OF THE PERSON TO HIS COUNTRY OF NATIONALITY FOR TREATMENT IN ACCORDANCE WITH ITS LAWS.

IN A CASE IN WHICH THE MENTALLY ILL PERSON WAS CHARGED WITH AN OFFENSE BY A STATE OF THE OTHER COUNTRY, THE LIMITED OFFICIAL USE

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EMBASSY OF THE PERSON CHARGED WILL PETITION THE AUTHORITY OF THE TRANSFERRING STATE FOR THE TRANSFER OF SUCH PERSON. THE AUTHORITY OF THE TRANSFERRING STATE WILL INVESTIGATE THE MATTER AND IF IT FINDS THE REQUEST TO BE APPROPRIATE, EXERT ITS BEST EFFORTS TO SECURE TRANSFER OF SUCH PERSON. IF THE CHARGING STATE AGREES UNDER ITS LAW THE AUTHORITY WILL TURN OVER CUSTODY OF SUCH PERSON TO THE APPROPRIATE AUTHORITIES OF THE RECEIVING STATE, FOR TRANSFER TO HIS COUNTRY OF NATIONALITY FOR TREATMENT IN ACCORDANCE WITH ITS LAWS.

THE SAME PROCEDURES SHALL APPLY TO NATIONALS OF EITHER COUNTRY CONVICTED OF FEDERAL OR STATE OFFENSES IN EITHER COUNTRY, WHO HAVE BEEN DETERMINED IN ACCORDANCE WITH THE LAWS OF THE TRANSFERRING STATE TO BE MENTALLY ILL; EXCEPT THAT THE TRANSFERRING STATE SHALL AFFORD AN OPPORTUNITY TO THE RECEIVING STATE, IF IT SO DESIRES, TO VERIFY, PRIOR TO THE TRANSFER, THE OFFENDER'S CONSENT TO TRANSFER IN ACCORDANCE WITH THE LAWS OF THE RECEIVING STATE.

IF YOU ARE IN ACCORD WITH THE PROVISIONS I HAVE OUTLINED FOR HANDLING MENTALLY ILL CASES, I PROPOSE THAT THIS

LETTER AND YOUR REPLY THERETO CONSTITUTE AN AGREEMENT TO
IMPLEMENT THE PROVISIONS OF ARTICLE VIII (2) OF THE TREATY.
SIGNED - GRIFFIN BELL, ATTORNEY GENERAL OF THE UNITED
STATES OF AMERICA. END QUOTE.

3. DRAFT SPANISH TEXT BEING SENT SEPTTEL.

4. EMBASSY REQUESTS DEPARTMENT'S AUTHORIZATION ASAP TO
PROVIDE GOM WITH REVISED TEXT. EXECUTIVE OFFICER TO
ATTORNEY GENERAL HAS TELEPHONED EMBASSY INDICATING DESIRE
TO PROCEED. THOMPSON

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